

**Commonwealth of Kentucky
Energy and Environment Cabinet
Department for Environmental Protection
Division for Air Quality
200 Fair Oaks Lane, 1st Floor
Frankfort, Kentucky 40601
(502) 564-3999**

**AIR QUALITY PERMIT
Issued under 401 KAR 52:040**

Permittee Name: Appalachian Fuels, LLC
Mailing Address: 1500 North Big Run Road
Ashland, Kentucky 41102

Source Name: Stonecoal Tipple
Mailing Address: Same as above

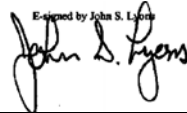
Source Location: 441 Stonecoal Road
Pikeville, Kentucky 41501

Permit ID: S-06-312 (Revision 1)
Agency Interest #: 44413
Activity ID: APE20080001
Review Type: Minor Source, Construction / Operating
Source ID: 21-195-00216

Regional Office: Hazard Regional Office
233 Birch Street, Suite 2
Hazard, KY 41701-2179
(606) 435-6022

County: Pike

Application
Complete Date: December 9, 2008
Issuance Date: November 20, 2006
Revision Date: December 23, 2008
Expiration Date: November 20, 2016

Designed by John S. Lyons


**John S. Lyons, Director
Division for Air Quality**

PERMIT AUTHORIZATION

Pursuant to a duly submitted application, which was determined to be complete on December 9, 2008, the Kentucky Division for Air Quality hereby authorizes the construction and operation of the equipment described herein in accordance with the terms and conditions of this permit. This permit has been issued under the provisions of Kentucky Revised Statutes Chapter 224 and regulations promulgated pursuant thereto.

The permittee shall not construct, reconstruct, or modify an affected facility without first having submitted a complete application and receiving a permit for the planned activity from the Division, except as provided in this permit or in Regulation 401 KAR 52:040, State-origin permits.

Issuance of this permit does not relieve the permittee from the responsibility of obtaining other permits, licenses, or approvals that may be required by the Cabinet or other federal, state, or local agency.

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS

- 01 (-) Loadout (Raw Coal)**
(Maximum Rated Capacity – 500 tons/hour)
[From Truck Dump to Raw Coal Stockpile Area (1)]
Constructed: 1982
Control: Wet Suppression
- (-) Loadout (Raw Coal)**
(Maximum Rated Capacity – 500 tons/hour)
[From Raw Coal Stockpile Area (1) to Receiving Hopper (-)]
Constructed: 1982
Control: Wet Suppression
- (5) Loadout (Truck Dump)**
(Maximum Rated Capacity – 500 tons/hour)
[From Truck Dump to Receiving Hopper (-)]
Constructed: 1982
Control: Wet Suppression
- (-) Receiving Hopper**
(Maximum Rated Capacity – 500 tons/hour)
[From Loadout(s) (-) & (5) to Feeders (2) & (3)]
Constructed: 1982
Control: Wet Suppression
- (2) Feeder**
(Maximum Rated Capacity – 250 tons/hour)
[From Receiving Hopper (-) to Crusher Feed Conveyor (4)]
Constructed: 1982
Control: Wet Suppression
- (3) Feeder**
(Maximum Rated Capacity – 250 tons/hour)
[From Receiving Hopper (-) to Crusher Feed Conveyor (4)]
Constructed: 1982
Control: Wet Suppression
- (4) Conveyor and Transfer Points (42") (Crusher Feed)**
(Maximum Rated Capacity – 1000 tons/hour)
[From Feeders (2) & (3) to Primary Crusher (6)]
Constructed: 1982
Control: Wet Suppression

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)

- 01 (6) Primary Crusher (56 Jeffrey)**
(Maximum Rated Capacity – 800 tons/hour)
[From Crusher Feed Conveyor (4) to Crushed Coal Conveyor (4)]
Constructed: 1982
Control: Wet Suppression
- (4) Conveyor and Transfer Points (36”) (Crushed Coal)**
(Maximum Rated Capacity – 1000 tons/hour)
[From Primary Crusher (6) & Long Fines Belt (12) to
Stacker Feed & Train Loadout Conveyors (4)]
Constructed: 1982
Control: Wet Suppression
- (4) Conveyor and Transfer Points (36”) (Stacker Feed)**
(Maximum Rated Capacity – 1000 tons/hour)
[From Crushed Coal Conveyor (4) to Processed Coal
Stacking Tube/Stockpile (7)]
Constructed: 1982
Control: Wet Suppression
- (8) Underground Feeder [Under Stockpile (7)-No Emissions]**
(Maximum Rated Capacity – 3500 tons/hour)
[From Processed Coal Stockpile (7) to Tunnel Conveyor (4)]
Constructed: 1982
Control: Underground
- (9) Underground Feeder [Under Stockpile (7)-No Emissions]**
(Maximum Rated Capacity – 3500 tons/hour)
[From Processed Coal Stockpile (7) to Tunnel Conveyor (4)]
Constructed: 1982
Control: Underground
- (4) Conveyor and Transfer Points (60”) (Reclaim Tunnel)**
(Maximum Rated Capacity – 3500 tons/hour)
[From Underground Feeders (8-9) to Train Loadout Conveyor (4)]
Constructed: 1982
Control: Wet Suppression
- (4) Conveyor and Transfer Points (60”) (Train Loadout)**
(Maximum Rated Capacity – 3500 tons/hour)
[From Tunnel & Crushed Coal Conveyors (4) to Loadout Bin (-)]
Constructed: 1982
Control: Wet Suppression

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)

01 (-) Loadout Bin
(Maximum Rated Capacity – 3500 tons/hour)
[From Train Loadout Conveyor (4) to Rail Loadout (10)]
Constructed: 1982
Control: Wet Suppression

(10) Rail Loadout
(Maximum Rated Capacity – 3500 tons/hour)
[From Loadout Bin (-) to Railcar]
Constructed: 1982
Control: Wet Suppression

ADDITIONS:

05 (-) Loadout (Raw Coal)
(Maximum Rated Capacity – 500 tons/hour)
[From Truck Dump to Raw Coal Stockpile (-)]
Constructed: 2006
Control: Wet Suppression

(-) Loadout (Raw Coal)
(Maximum Rated Capacity – 500 tons/hour)
[From Raw Coal Stockpile (-) to Receiving Hopper (1)]
Constructed: 2006
Control: Wet Suppression

(1) Receiving Hopper (3' x 9') (Raw Coal)
(Maximum Rated Capacity – 500 tons/hour)
[From Loadout (-) to Crusher Feed Conveyor (2)]
Constructed: 2006
Control: Wet Suppression

(2) Conveyor and Transfer Points (42" x 55') (Crusher Feed)
(Maximum Rated Capacity – 500 tons/hour)
[From Receiving Hopper (1) to Primary Crusher (3)]
Constructed: 2006
Control: Wet Suppression

(3) Primary Crusher (18" x 72"-McClanahan)
(Maximum Rated Capacity – 500 tons/hour)
[From Crusher Feed Conveyor (2) to Screen Feed Conveyor (4)]
Constructed: 2006
Control: Wet Suppression

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)**ADDITIONS:** (Continued)

- 05 (4) **Conveyor and Transfer Points (42" x 125') (Screen Feed)**
 (Maximum Rated Capacity – 500 tons/hour)
 [From Primary Crusher (3) to Screens (5-6)]
 Constructed: 2006
 Control: Wet Suppression
- (5) **Screen #1 (Double Deck) (Allis Chalmers-8' x 20')**
 (Maximum Rated Capacity – 250 tons/hour)
 [From Screen Feed Conveyor (4) to Stoker Transfer
 & Fines Conveyors (7-9)]
 Constructed: 2006
 Control: Enclosed, Wet Suppression
- (6) **Screen #2 (Double Deck) (Allis Chalmers-8' x 20')**
 (Maximum Rated Capacity – 250 tons/hour)
 [From Conveyor (4) to Stoker Transfer
 & Fines Conveyors (7-9)]
 Constructed: 2006
 Control: Enclosed, Wet Suppression
- (9) **Conveyor and Transfer Points (30" x 38') (Stoker Transfer)**
 (Maximum Rated Capacity – 250 tons/hour)
 [From Screens (5-6) to Stoker Radial Stacker (10)]
 Constructed: 2006
 Control: Wet Suppression
- (10) **Conveyor and Transfer Points (30" x 85') (Stoker Radial Stacker)**
 (Maximum Rated Capacity – 250 tons/hour)
 [From Stoker Transfer Conveyor (9) to Stoker Stockpile (-)]
 Constructed: 2006
 Control: Wet Suppression
- (-) **Loadout (Stoker Coal)**
 (Maximum Rated Capacity – 500 tons/hour)
 [From Stoker Stockpile (-) to Receiving Hopper (15)]
 Constructed: 2006
 Control: Wet Suppression
- (7) **Conveyor and Transfer Points (30" x 37') (Fines #1)**
 (Maximum Rated Capacity – 250 tons/hour)
 [From Screens (5-6) to Crossover Feed Conveyor (11)]
 Constructed: 2006
 Control: Wet Suppression

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)**ADDITIONS:** (Continued)

- 05 (8) **Conveyor and Transfer Points (30' x 37') (Fines #2)**
 (Maximum Rated Capacity – 250 tons/hour)
 [From Screens (5-6) to Crossover Feed Conveyor (11)]
 Constructed: 2006
 Control: Wet Suppression
- (11) **Conveyor and Transfer Points (36' x 36') (Crossover Feed)**
 (Maximum Rated Capacity – 250 tons/hour)
 [From Fines Conveyors (7-8) to Long Fines Conveyor (12)]
 Constructed: 2006
 Control: Wet Suppression
- (12) **Conveyor and Transfer Points (36' x 282') (Long Fines)**
 (Maximum Rated Capacity – 250 tons/hour)
 [From Crossover Feed Conveyor (11) to Crushed Coal Conveyor (4)]
 Constructed: 2006
 Control: Wet Suppression
- (15) **Receiving Hopper (3' x 9') (Stoker Coal)**
 (Maximum Rated Capacity – 500 tons/hour)
 [From Loadout (-) to Short Loadout Conveyor (13)]
 Constructed: 2006
 Control: Wet Suppression
- (13) **Conveyor and Transfer Points (42' x 28') (Short Loadout)**
 (Maximum Rated Capacity – 500 tons/hour)
 [From Receiving Hopper (15) to Loadout Conveyor (14)]
 Constructed: 2006
 Control: Wet Suppression
- (14) **Conveyor and Transfer Points (42' x 200') (Loadout)**
 (Maximum Rated Capacity – 500 tons/hour)
 [From Short Loadout Conveyor (13) to Loadout Bin (-)]
 Constructed: 2006
 Control: Wet Suppression
- (-) **Loadout Bin**
 (Maximum Rated Capacity – 500 tons/hour)
 [From Loadout Conveyor (14) to Rail Loadout (-)]
 Constructed: 2006
 Control: Wet Suppression

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)**ADDITIONS:** (Continued)

05 (-) **Loadout (Rail) (Stoker)**
 (Maximum Rated Capacity – 500 tons/hour)
 [From Loadout Bin (-) to Railcar]
 Constructed: 2006
 Control: Wet Suppression

APPLICABLE REGULATIONS:

Regulation 401 KAR 60:005, Standards of performance for new stationary sources, which incorporates by reference 40 CFR 60.250 (40 CFR 60, Subpart Y), applies to each of the affected facilities listed above.

1. Operating Limitations:

N/A

2. Emission Limitations:

Fugitive emissions from the three hoppers, emission points 01 (-), 05 (1), and (15); the four feeders, emission points 01 (2), (3), (8), and (9); the two crushers, emission points 01 (6) and 05 (3); the two screens, emission points 05 (5) and (6); the fifteen conveyors and transfer points, emission points 01 (4), (4), (4), (4), (4), 05 (2), (4), (7), (8), (9), (10), (11), (12), (13), and (14); the two loadout bins, emission points 01 (-) and 05 (-); and the eight loadouts, emission points, 01 (-), (-), (5), (10), 05 (-), (-), (-), and (-); shall not exhibit greater than twenty percent (20%) opacity, each, as specified in 40 CFR 60.252(c).

Compliance Demonstration Method:

- a. In determining compliance with the opacity standards as listed above, the owner or operator shall use, as directed by 40 CFR 60.254(b)(2), Method 9 and the procedures as described in 40 CFR 60.11.
- b. See Section C, General Condition 6.a.

3. Testing Requirements:

See Section C, General Condition 7.c.

4. Monitoring Requirements:

See Section C, General Condition 6.a.

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)

5. Recordkeeping Requirements:

See Section C, General Conditions 2.a., 2.b., and 6.a.

6. Reporting Requirements:

See Section C, General Conditions 3.a., 3.b., 3.c., 6.b., and 7.b.

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)

- 02 (-) Stockpile (Open) (Raw Coal Area)**
(Maximum Rated Capacity – 500 tons/hour)
[From Loadout (-) to Loadout (-)]
 Constructed: 1982
 Control: Wet Suppression
- (-) Stockpile (Stacking Tube) (Open) (Processed Coal)**
(Maximum Rated Capacity – 1000 tons/hour)
[From Stacker Feed Conveyor (4) to Underground Feeders (8) & (9)]
 Constructed: 1982
 Control: Wet Suppression
- 03 (-) Haul Road and Yard Area (Unpaved)**
(Maximum Rated Capacity – 500 tons/hour)
[From Loadouts]
 Constructed: 1982
 Control: Wet Suppression

ADDITIONS:

- 06 (-) Stockpile (Open) (Raw Coal)**
(Maximum Rated Capacity – 500 tons/hour)
[From Loadout (-) to Loadout (-)]
 Constructed: 2006
 Control: Wet Suppression
- (-) Stockpile (Open) (Stoker Coal)**
(Maximum Rated Capacity – 250 tons/hour)
[From Stoker Radial Stacker (10) to Loadout (-)]
 Constructed: 2006
 Control: Wet Suppression

APPLICABLE REGULATIONS:

Regulation 401 KAR 63:010, Fugitive emissions, applies to each of the affected facilities listed above.

1. Operating Limitations:

N/A

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)

2. Emission Limitations:

- a. The materials processed at each affected facility listed above shall be controlled with wet suppression, enclosures, and/or dust collection equipment so as to comply with the requirements specified in Regulation 401 KAR 63:010, Fugitive emissions, Section 3. Standards for fugitive emissions.
- b. Pursuant to Regulation 401 KAR 63:010, Section 3 (1), no person shall cause, suffer, or allow any material to be handled, processed, transported, or stored; a building or its appurtenances to be constructed, altered, repaired, or demolished, or a road to be used without taking reasonable precaution to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, when applicable, but not be limited to the following:
 - 1) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;
 - 2) Application and maintenance of asphalt, oil, water, or suitable chemicals on roads, materials stockpiles, and other surfaces which can create airborne dusts;
 - 3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials, or the use of water sprays or other measures to suppress the dust emissions during handling. Adequate containment methods shall be employed during sandblasting or other similar operations.
 - 4) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;
 - 5) The maintenance of paved roadways in a clean condition;
 - 6) The prompt removal of earth or other material from a paved street which earth or other material has been transported thereto by trucking or earth moving equipment or erosion by water.
- c. Pursuant to Regulation 401 KAR 63:010, Section 3 (2), no person shall cause or permit the discharge of visible fugitive dust emissions beyond the lot line of the property on which the emissions originate.
- d. Pursuant to Regulation 401 KAR 63:010, Section 3 (3), when dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building or equipment in such a manner and amount as to cause a nuisance or to violate any administrative regulation, the Secretary may order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that all air and gases and air or air-borne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.
- e. Pursuant to Regulation 401 KAR 63:010, Section 4, Additional Requirements, in addition to the requirements of Section 3 of this regulation, the following shall apply:

SECTION B - EMISSION POINTS, EMISSIONS UNITS, APPLICABLE REGULATIONS, AND OPERATING CONDITIONS (CONTINUED)

2. Emission Limitations: (Continued)

- 1) Pursuant to Regulation 401 KAR 63:010, Section 4 (1), open bodied trucks, operating outside company property, transporting materials likely to become airborne shall be covered at all times when in motion.
- 2) Pursuant to Regulation 401 KAR 63:010, Section 4 (4), no one shall allow earth or other material being transported by truck or earth moving equipment to be deposited onto a paved street or roadway.

Compliance Demonstration Method:

See Section C, General Condition 6.a.

3. Testing Requirements:

See Section C, General Condition 7.c.

4. Monitoring Requirements:

See Section C, General Condition 6.a.

5. Recordkeeping Requirements:

See Section C, General Conditions 2.a., 2.b., and 6.a.

6. Reporting Requirements:

See Section C, General Conditions 3.a., 3.b., 3.c., 6.b., and 7.b.

SECTION C - GENERAL CONDITIONS

1. Administrative Requirements

- a. The permittee shall comply with all conditions of this permit. Noncompliance shall be a violation of 401 KAR 52:040, Section 3(1)(b) and is grounds for enforcement action including but not limited to the termination, revocation and reissuance, or revision of this permit.
- b. This permit shall remain in effect for a fixed term of ten (10) years following the original date of issue, November 20, 2006. Permit expiration shall terminate the source's right to operate unless a timely and complete renewal application has been submitted to the Division at least six months prior to the expiration date of the permit. Upon a timely and complete submittal, the authorization to operate within the terms and conditions of this permit, including any permit shield, shall remain in effect beyond the expiration date, until the renewal permit is issued or denied by the Division. [401 KAR 52:040, Section 15]
- c. Any condition or portion of this permit which becomes suspended or is ruled invalid as a result of any legal or other action shall not invalidate any other portion or condition of this permit [Section 1a-11 of the *Cabinet Provisions and Procedures for Issuing State-Origin Permits* incorporated by reference in 401 KAR 52:040 Section 23].
- d. Pursuant to materials incorporated by reference by 401 KAR 52:040, this permit may be revised, revoked, reopened, reissued, or terminated for cause. The filing of a request by the permittee for any permit revision, revocation, reissuance, or termination, or of a notification of a planned change or anticipated noncompliance shall not stay any permit condition [Section 1a-4, 5, of the *Cabinet Provisions and Procedures for Issuing State-Origin Permits* incorporated by reference in 401 KAR 52:040 Section 23].
- e. This permit does not convey property rights or exclusive privileges [Section 1a-8 of the *Cabinet Provisions and Procedures for Issuing State-Origin Permits* incorporated by reference in 401 KAR 52:040 Section 23].
- f. Nothing in this permit shall alter or affect the liability of the permittee for any violation of applicable requirements prior to or at the time of permit issuance [401 KAR 52:040 Section 11(3)].
- g. This permit shall be subject to suspension at any time the permittee fails to pay all fees within 90 days after notification as specified in 401 KAR 50:038, Air emissions fee. The permittee shall submit an annual emissions certification pursuant to 401 KAR 52:040, Section 20.
- h. All previously issued permits to this source at this location are hereby null and void.

SECTION C - GENERAL CONDITIONS (CONTINUED)**2. Recordkeeping Requirements**

- a. Records of all required monitoring data and support information, including calibrations, maintenance records, and original strip chart recordings, and copies of all reports required by the Division for Air Quality, shall be retained by the permittee for a period of at least five years and shall be made available for inspection upon request by any duly authorized representative of the Division for Air Quality [401 KAR 52:040 Section 3(1)(f) and Section 1b-IV-2 of the *Cabinet Provisions and Procedures for Issuing State-Origin Permits* incorporated by reference in 401 KAR 52:040 Section 23].
- b. The permittee shall perform compliance certification and recordkeeping sufficient to assure compliance with the terms and conditions of the permit. Documents, including reports, shall be certified by a responsible official pursuant to 401 KAR 52:040, Section 21.

3. Reporting Requirements

- a. (1) In accordance with the provisions of 401 KAR 50:055, Section 1, the permittee shall notify the Regional Office listed on the front of this permit concerning startups, shutdowns, or malfunctions as follows:
 - i. When emissions during any planned shutdowns and ensuing startups will exceed the standards, notification shall be made no later than three (3) days before the planned shutdown, or immediately following the decision to shut down, if the shutdown is due to events which could not have been foreseen three (3) days before the shutdown.
 - ii. When emissions due to malfunctions, unplanned shutdowns and ensuing startups are or may be in excess of the standards, notification shall be made as promptly as possible by telephone (or other electronic media) and shall be submitted in writing upon request.
- (2) The permittee shall promptly report deviations from permit requirements including those attributed to upset conditions (other than emission exceedances covered by Reporting Requirement condition a.(1) above), the probable cause of the deviation, and corrective or preventive measures taken; to the Regional Office listed on the front of this permit within 30 days. Other deviations from permit requirements shall be included in the semiannual report [Section 1b-V-3 of the *Cabinet Provisions and Procedures for Issuing State-Origin Permits* incorporated by reference in 401 KAR 52:040 Section 23].
- b. The permittee shall furnish information requested by the Cabinet to determine if cause exists for modifying, revoking and reissuing, or terminating the permit; or to determine compliance with the permit [Section 1a-6 of the *Cabinet Provisions and Procedures for Issuing State-Origin Permits* incorporated by reference in 401 KAR 52:040 Section 23].

SECTION C - GENERAL CONDITIONS (CONTINUED)**3. Reporting Requirements (Continued)**

- c. Summary reports of monitoring required by this permit shall be submitted to the Regional Office listed on the front of this permit at least every six (6) months during the life of this permit. For emission units that were still under construction or which had not commenced operation at the end of the 6-month period covered by the report and are subject to monitoring requirements in this permit, the report shall indicate that no monitoring was performed during the previous six months because the emission unit was not in operation. The summary reports are due January 30th and July 30th of each year. All deviations from permit requirements shall be clearly identified in the reports. All reports shall be certified by a responsible official pursuant to 401 KAR 52:040, Section 21.

4. Inspections

In accordance with the requirements of 401 KAR 52:040, Section 3(1)(f) the permittee shall allow authorized representatives of the Cabinet to perform the following during reasonable times. Reasonable times are defined as during all hours of operation, during normal office hours; or during an emergency:

- a. Enter upon the premises to inspect any facility, equipment (including air pollution control equipment), practice, or operation.
- b. To access and copy any records required by the permit.
- c. Inspect, at reasonable times, any facilities, equipment (including monitoring and pollution control equipment), practices, or operations required by the permit.
- d. Sample or monitor, at reasonable times, substances or parameters to assure compliance with the permit or any applicable requirements.

5. Emergencies/Enforcement Provisions

- a. The permittee shall not use as defense in an enforcement action, the contention that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance [Section 1a-3 of the *Cabinet Provisions and Procedures for Issuing State-Origin Permits* incorporated by reference in 401 KAR 52:040 Section 23].
- b. An emergency shall constitute an affirmative defense to an action brought for the noncompliance with the technology-based emission limitations if the permittee demonstrates through properly signed contemporaneous operating logs or relevant evidence that:
 - (1) An emergency occurred and the permittee can identify the cause of the emergency;
 - (2) The permitted facility was at the time being properly operated;
 - (3) During an emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and

SECTION C - GENERAL CONDITIONS (CONTINUED)

5. Emergencies/Enforcement Provisions (Continued)

- (4) The permittee notified the Division as promptly as possible and submitted written notice of the emergency to the Division within two working days after the time when emission limitations were exceeded due to the emergency and included a description of the emergency, steps taken to mitigate emissions, and corrective actions taken.
- c. Emergency provisions listed in General Condition 5.b are in addition to any emergency or upset provision contained in an applicable requirement [401 KAR 52:040, Section 22(1)].
- d. In an enforcement proceeding, the permittee seeking to establish the occurrence of an emergency shall have the burden of proof. [401 KAR 52:040, Section 22(2)].

6. Compliance

- a. Periodic testing or instrumental or non-instrumental monitoring, which may consist of record keeping, shall be performed to the extent necessary to yield reliable data for purposes of demonstration of continuing compliance with the conditions of this permit. For the purpose of demonstration of continuing compliance, the following guidelines shall be followed:
 - (1) Pursuant to 401 KAR 50:055, General compliance requirements, Section 2(5), all air pollution control equipment and all pollution control measures proposed by the application in response to which this permit is issued shall be in place, properly maintained, and in operation at any time an affected facility for which the equipment and measures are designed is operated, except as provided by 401 KAR 50:055, Section 1.
 - (2) All the air pollution control systems shall be maintained regularly in accordance with good engineering practices and the recommendations of the respective manufacturers. A log shall be kept of all routine and nonroutine maintenance performed on each control device. Daily observations are required during daylight hours of all operations, control equipment and any visible emissions to determine whether conditions appear to be either normal or abnormal. If the operations, controls and/or emissions appear to be abnormal, the permittee must then comply with the requirements of Section C – General Conditions, 3.a.(2), of this permit.
 - (3) A log of the monthly production rates shall be kept available at the facility. Compliance with the emission limits may be demonstrated by computer program, spread sheets, calculations or performance tests as may be specified by the Division [401 KAR 50:055, Section 2].
- b. Pursuant to 401 KAR 52:040, Section 19, the permittee shall certify compliance with the terms and conditions contained in this permit by January 30th of each year, by completing and returning a Compliance Certification Form (DEP 7007CC) (or an approved alternative) to the Regional Office listed on the front of this permit in accordance with the following requirements:
 - (1) Identification of the term or condition;
 - (2) Compliance status of each term or condition of the permit;
 - (3) Whether compliance was continuous or intermittent;

SECTION C - GENERAL CONDITIONS (CONTINUED)

6. Compliance (Continued)

- (4) The method used for determining the compliance status for the source, currently and over the reporting period, and
- (5) For an emissions unit that was still under construction or which has not commenced operation at the end of the 12-month period covered by the annual compliance certification, the permittee shall indicate that the unit is under construction and that compliance with any applicable requirements will be demonstrated within the timeframes specified in the permit.
- (6) The certification shall be postmarked by January 30th of each year. Annual compliance certifications shall be mailed to the following addresses:

Division for Air Quality
Hazard Regional Office
233 Birch Street, Suite 2
Hazard, KY 41701-2179

Division for Air Quality
Central Files
200 Fair Oaks Lane, 1st Floor
Frankfort, KY 40601

- c. Permit Shield - A permit shield shall not protect the owner or operator from enforcement actions for violating an applicable requirement prior to or at the time of permit issuance. Compliance with the conditions of this permit shall be considered compliance with all:
 - (1) Applicable requirements that are included and specifically identified in this permit; or
 - (2) Non-applicable requirements expressly identified in this permit [401 KAR 52:040, Section 11].

7. Construction Requirements:

- a. Pursuant to 401 KAR 52:040, Section 12(3), unless construction is commenced on or before 18 months after the date of issuance of this permit, or if construction is commenced and then stopped for any consecutive period of 18 months or more, or is not completed within a reasonable timeframe, then the construction and operating authority granted by this permit for those affected facilities for which construction was not completed shall immediately become invalid. Upon a written request, the Cabinet may extend these time periods if the source shows good cause.
- b. Pursuant to 401 KAR 52:040, Section 12(4)(a) and 401 KAR 59:005, General provisions, Section 3(1), within 30 days following construction commencement, within 15 days following start-up and attainment of maximum production rate, or within 15 days following the issuance date of this permit, whichever is later, the owner and/or operator of the affected facilities specified on this permit shall furnish to the Regional Office listed on the front of this permit, with a copy to the Division's Frankfort Central Office, the following:
 - (1) Date when construction commenced.
 - (2) Start-up date of each of the affected facilities listed on this permit.
 - (3) Date when maximum production rate was achieved.

SECTION C - GENERAL CONDITIONS (CONTINUED)**7. Construction Requirements: (Continued)**

- c. (1) Pursuant to 401 KAR 59:005, General provisions, Section 2(1), this permit shall allow time for the initial start-up, operation and compliance demonstration of the affected facilities listed herein. However, within 60 days after achieving the maximum production rate at which the affected facilities will be operated, but not later than 180 days after initial start-up of such facilities, the owner or operator shall demonstrate compliance to a duly authorized representative of the Division.
 - (2) Pursuant to 401 KAR 59:005, General provisions, Section 3(1)(b), unless notification and justification to the contrary are received by this Division, the date of achieving the maximum production rate at which the affected facilities will be operated shall be deemed to be 30 days after initial start-up.
 - (3) Pursuant to 401 KAR 50:045, Section 2, a source required to conduct a performance test shall submit a completed Compliance Test Protocol form, DEP form 6028, or a test protocol a source has developed for submission to other regulatory agencies, in a format approved by the cabinet, to the Division's Frankfort Central Office a minimum of sixty (60) days prior to the scheduled test date. Pursuant to 401 KAR 50:045, Section 7, the Division shall be notified of the actual test date at least thirty (30) days prior to the test.
 - (4) Pursuant to 401 KAR 50:045 Section 5 in order to demonstrate that a source is capable of complying with a standard at all times, a performance test shall be conducted under normal conditions that are representative of the source's operations and create the highest rate of emissions. If [When] the maximum production rate represents a source's highest emissions rate and a performance test is conducted at less than the maximum production rate, a source shall be limited to a production rate of no greater than 110 percent of the average production rate during the performance tests. If and when the facility is capable of operation at the rate specified in the application, the source may retest to demonstrate compliance at the new production rate. The Division for Air Quality may waive this requirement on a case-by-case basis if the source demonstrates to the Division's satisfaction that the source is in compliance with all applicable requirements.
- d. Operation of the affected facilities authorized by this permit shall not commence until compliance with applicable standards specified herein has been demonstrated in accordance with the requirements of 401 KAR 52:040, Section 12(4)(b). Until compliance is demonstrated, the source may only operate for the purpose of demonstrating compliance.